Remarks

Claims 1-25 are in the application. Claims 1, 13, and 25 are in independent form. Reconsideration is requested.

The disclosure is objected to due to informalities in the Cross Reference to Related Applications. The paragraph stating the Cross Reference to Related Applications has been amended to correct the informalities. Applicants request that this objection be withdrawn.

Claims 1, 13, and 25 are rejected under 35 U.S.C. 103(a) for obviousness over Ross et al. (U.S. Patent No. 6,263,212) in view of Astrom (U.S. Patent No. 5,579,372) and Official Notice taken by the Examiner. Claims 2-5, 7, 10, 14-16 and 19-21 are rejected under 35 U.S.C. 103(a) for obviousness over Ross et al. in view of Astrom and Blonder (U.S. Patent No. 5,946,299) and Official Notice taken by the Examiner. Applicants respond as follows.

With regard to claims 1, 13, and 25, the Examiner states that Ross teaches outbound flow control, but is silent as to several specific features recited in the claims. The Examiner takes Official Notice that flow control is well known and cites Astrom as teaching flow control for SMS messaging. The Examiner concludes that it would have been obvious to "modify Ross, such that flow control (throttling) is used, to provide 'quality of service' for data transmission (ie. flow control, multiple message centers, etc.)." Applicants respond as follows.

A claim is allowable unless the cited art, including any taken as Official Notice, teaches or suggests each and every feature recited in a claim. A rejection is improper and must be withdrawn if the cited art fails to teach or suggest each and every feature. Applicants submit that the cited art does not teach or suggest every feature in the rejected claims.

Claim 1 recites determining whether a message source has exceeded a threshold value associated with sending messages, and transmitting a response signal from the gateway to the message source indicating an error if the message source has exceeded the threshold value. As described in the

application, this claimed method transmits a throttle error messages on the basis of the message transmitting activities of individual short message entities, not an aggregate message flow basis. (Application page 5 lines 1-16.) This provides a "fair and equitable throttle control system" that throttles capacity of high-volume users while allowing lower-volume users to send messages freely. In contrast, conventional flow control systems would limit message flow from all users regardless of their individual use, thereby resulting in excessive use by some users adversely affecting access other "innocent" users.

The Examiner has rejected claim 1 merely because "flow control" is known in the art. The Examiner has not identified any teaching or suggestion in the art of the specific claim features. None of the cited art even hints at a messaging system in which a message source is sent an error message because it has exceeded a threshold value associated with the messages sent from that source.

Ross et al. describes a Distribution List Processing method in which high-volume distribution lists sent from users are broken up into blocks to avoid a jam in the message system. (Ross et al., col. 8, line 61-col. 9, line 38.) Alternatively, separate copies of the short message may be made for each entity in the distribution list. (Ross et al., col. 9, line 39-col. 9, line 45.) In the passage cited by the Examiner beginning at col. 9, line 45, each short message in a block of a distribution list is submitted to a specific process on a multi-process workstation operating the short message system. Astrom describes a system in which an SMS-Busy condition arises when a mobile station (MS) has already established a short message dialog with one short message service center (SC) when another SC attempts to start a dialog. (Astrom, col 5, lines 8-10.)

Applicants submit that none of the cited references, including the Official Notice taken by the Examiner, even mentions transmitting an error message to a message source that has exceeded a threshold for sent messages. To address Distribution List transmissions alone, Ross et al. breaks up the lists in various ways, but still burdens the system attempting to complete transmission of arbitrarily large distribution lists. Astrom is directed to conflicts between multiple

service centers attempting to communicate at one time with a mobile station. Astrom is not even related to how many messages flow from a mobile station. The Official Notice taken by the Examiner acknowledges flow control and its benefits, but provides no teaching or suggestion of sending error messages to a message source that uses excessive capacity.

Applicants submit, therefore, that the rejection of claim 1 is improper and request that the rejection be withdrawn.

Likewise, claims 13 and 25 recite features that relate to message sources sending messages greater than a threshold value, and transmitting error messages back to the message source when excessive numbers of messages are sent. None of the cited references teach or suggest control of message volume by transmitting error messages to the heaviest users. Applicants request, therefore, that the rejections of claims 13 and 25 also be withdrawn.

Applicants submit that claims 2-5, 7, 10, 14-16 and 19-21 are allowable as dependents of claims 1 and 13 and request the rejections of these claims be withdrawn. In addition, applicants submit that these claims are further allowable for the reasons set forth below

Dependent claims 3-7, 11, 14-16, 18-21, and 23 have been amended to correct typographical errors (claims 6, 16, and 19), simplify formatting (claims 14, 15, and 21) , or to change dependency to generalize claim scope (claims 3-5, 7, 11, 18, 20, and 23).

With regard to claims 2 and 16 the Examiner cites the routing of messages between servers in Blonder as reading on "rejecting some/all messages received at gateway for primary message center." Applicants note, and the Examiner states, that the cited references do not teach or suggest "rejecting further messages transmitted from the message source to the gateway."

Applicants submit that Blonder is directed to inter-server communications during load sharing operations, not messages transmitted from a message

source to a gateway. Moreover, rather than "rejecting further messages transmitted from the message source to the gateway," as recited in claim 2, Blonder describes the rejected incoming server communication being given an alternate end-server so that the communication can be completed. Rather than blocking the message, as recited in the claim, Blonder merely re-routes a server communication. Applicants submit, therefore, that claims 2 and 16 are patentably distinct from the cited references and request that this rejection be withdrawn.

With regard to claim 3 the Examiner notes that the cited references are silent as to the claimed feature. The Examiner then adds that "one skilled in the art realizes that control messages would be used between different messaging centers." Applicants submit, however, that the cited art provides no teaching or suggestion of the specific command status signal recited in the claim, namely a command status signal indicating a throttling error based upon a message source sending more than a threshold value of messages. Applicants submit, therefore, that claim 3 is patentably distinct and request that the rejection be withdrawn.

With regard to claims 4 and 19 the Examiner states that the cited art teaches sending messages with or without flow control. Applicants note, however, that claims 4 and 19 are directed to completing a message transmission upon satisfaction of a condition, namely that the message source has not exceeded the threshold value. The cited references make no mention of conditioning a message transmission in such a way. Absence of a condition (e.g., no flow control) does not teach or suggest making satisfaction of a condition a prerequisite for an action. Applicants submit, therefore, that claims 4 and 19 are patentably distinct and request that the rejection be withdrawn.

With regard to claims 5 and 20 the Examiner states that the cited references are silent as to the claimed feature, but takes Official Notice that logging of events is known in the art. Applicants note, however, that claims 5 and 20 are not directed merely to logging, but rather are specifically directed to

logging "all events associated with determining whether the message source has exceeded the threshold value."

The cited references provide no teaching or suggestion as to determining whether the message source has exceeded the threshold value. As a result, the cited references can provide no teaching or suggestion of logging all such events, whether or not the threshold value is exceeded. Applicants submit, therefore, that claims 5 and 20 are patentably distinct and request the rejection be withdrawn.

With regard to claims 10, 14, and 15 the Examiner states that the cited references are silent as to the claimed features, but nevertheless rejects the claim because flow control is known in the art. Applicants submit that the cited art provides not teaching or suggestion of instructing a message source to reduce a message sending rate.

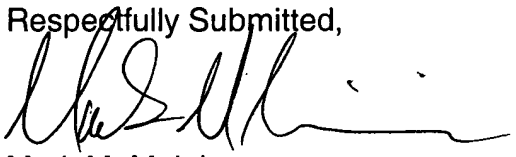
As noted by the Examiner, reducing the sending rate is a way to provide "quality of service." This is a benefit of the present invention. However, none of the cited references teaches or suggests such a manner of operation with regard to short messages. Applicants submit, therefore, that claims 10, 14, and 20 are patentably distinct and request the rejection be withdrawn.

Claims 6, 8, 9, 11, 12, 17, 18, and 22-24 are indicated as including allowable subject matter. Applicants note that dependencies of claims have been changed and request clarification of the allowability of these claims.

Applicants believe the application is in condition for allowance and respectfully request the same.

IPSOLON LLP
805 SW BROADWAY #2740
PORTLAND, OREGON 97205
TEL. (503) 249-7066
FAX (503) 249-7068

Respectfully Submitted,



Mark M. Meininger
Registration No. 32,428